



Pete Ricketts
Governor

STATE OF NEBRASKA

NEBRASKA LIQUOR CONTROL COMMISSION

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November 14, 2022

The Honorable, Pete Ricketts
Governor of Nebraska
and Senators of the Legislature
State Capitol Building
Lincoln NE 68509

Dear Governor Pete Ricketts and Senators,

Pursuant to Neb. Rev. Stat. §53-117(9) it is the duty of the Nebraska Liquor Control Commission "to investigate the administration of laws in relation to alcoholic liquor in this and other states and to recommend to the Governor and through him or her to the Legislature amendments to the Act". The following are our recommendations. Although listed numerically, we believe them to be equally important to further the health, safety, and welfare of the people of Nebraska through the regulations of alcoholic beverages.

1. ALCOHOL BRAND/PRODUCT REGISTRATION

A product registration would enable the Commission to correctly identify and classify alcoholic products being imported into and produced in Nebraska for taxation and distribution purposes.

2. NON-ALCOHOLIC BEVERAGES

Neb. Stat 53-160.02 directs that all near beer (nonalcoholic beer) be subject to all provisions of the Nebraska Liquor Control Act except taxation. Therefore, all nonalcoholic beer is distributed and sold the same way as alcoholic products. However, nonalcoholic spirits and wine, which are becoming more and more popular, have no inclusion in the Commission's regulations. This is confusing for the industry outside and inside of Nebraska. The Commission is requesting to have the authority to regulate all non-alcoholic spirit and wine.

3. 3rd PARTY DELIVERY PERMITS

There has been issues with third parties taking possession of alcohol and making deliveries for retail licensees. The Commission believes that those delivering alcohol should have a permit to ensure compliance with training and age requirements.

Kim Lowe
Commissioner

Bruce Bailey
Chairman

Harry A. Hoch
Commissioner

4. FARM WINERY ACT UPDATES & SDL USAGE,
UNIFYING MICRO DISTILLERY RIGHTS OF LICENSE TO CRAFT
BREWERY RIGHTS

A. Currently the Nebraska Farm Winery Act prohibits a Nebraska winery from obtaining an additional retail license. Therefore, Farm Wineries utilize an extraordinary number of SDL's for events such as weddings, concerts, and festivals. These licensees are using SDL's for consumption of other products not produced at the winery. The Commission believes a system where a Farm Winery should be able to obtain additional retail licenses.

B. In order to harmonize the Act as it pertains to Nebraska manufactures, the Commission recommends allowing limited self-distribution to Class Z (micro distilleries), the Commission recommends similar changes that were made to the Class L (Craft Breweries) and adopted last year.

5. SHIPPER LICENSE FEES

The Commission receives complaints from small, out of state manufacturers who seek to ship to Nebraska wholesalers and to Nebraska citizens. At this time, all shipper license fees are high when comparing to neighboring states and do not allow for proration. License year is May 1-April 30.

Nebraska S1 license fees are the second highest in the nation (\$500 annually). For example, South Dakota & Iowa charge a \$100 fee for direct shipping rights. The Commission believes that a reduction to \$100 is more equitable and would increase compliance.

6. APPLICATION FEE INCREASE FOR APPLYING FOR LICENSES

The Commission believes that the cost of an application for liquor licenses should be assessed. Four separate state agencies are involved in processing an application for a retail liquor license and the last time this fee was reviewed was in 2010. The Commission estimates the cost would be \$500.

7. CATERING ENDORSEMENT

The Class K "Catering Endorsement" allows a license to obtain more than six (6) SDL's per year. The current cost of the endorsement is \$100. The average number of SDLs issued by many liquor license holders are 12-20 while some are issued well over a hundred or more. The Commission believes that a graduated approach where different levels of the K license exist to more fairly reflect the value of the endorsement. In the alternative, a possible permit fee based on the number of "mobile bars" may be the appropriate manner to ensure fairness.

8. MANDATORY EDUCATION

The Commission believes that mandatory server training as well as mandatory education for bar owners or bar managers would be a benefit to the overall industry in the area of compliance and information which would lead to benefits for the safety and welfare of the general public.

9. DEFINE BOOTLEGGING & INCLUDE THE BOOTLEGGING REFERENCE IN 53-164.02 EVASION OF LIQUOR TAX

The Commission has seen an increase in "bootlegging" by means of transporting product across state lines. Most often the Commission finds it difficult to capture the product swiftly but this additional inclusion in the Liquor Control Act could serve as incentive for law enforcement. The Commission would like it defined as such in order to have the authority to apply 53-164.02 to double the excise tax so evaded and apply the Class II misdemeanor in order to further deter this criminal behavior and protect the 3-tiered system. Bootlegging definition is proposed to be the illegal manufacture, distribution, transportation, or sale of alcoholic products. The current statutes only deal with individuals illegally importing and not when a licensee is involved and the proposed change would aid in stopping this illegal action by the licensee.

10. AUCTIONS OF ALCOHOL REQUIRE A PERMIT

The Commission requests statutory authority to permit auctions and auction companies to sell alcoholic beverages if they are part of the auction and the Commission to create rules and regulations in this area. Sometimes there is a license but many times the license has closed or abandoned the property. It will be cleaner and more regulated to have the ability to issue permits to ensure the proper distribution of alcoholic product.

11. ADDITIONAL NEBRASKA STATE PATROL INVESTIGATORS

The Nebraska State Patrol (Neb. Rev. Stat. 53-117(3)) provides principal investigation and enforcement services to the Commission. There are currently six (6) full time positions assigned to this division. However, more enforcement resources are needed especially in the urban areas with the highest number of licensed locations. The Commission requests that the NSP Liquor Investigators be increased to nine (9) positions with those positions being assigned to Troop H and Troop A.

12. CANNABIS

If Nebraska makes the decision to allow cannabis, the Commission believes it should be regulated in a similar fashion to alcohol and that the Commission should regulate the product. The CAMP project will allow the Commission to effectively license and enforce Cannabis regulation.

Thank you for your consideration of our recommendations. We will work with you on the drafting of language or provide you with any further information that is requested.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION


Kim Lowe
Commissioner


Bruce Bailey
Chairman


Harry Hoch
Commissioner